MONTANA LEGISLATIVE HISTORY

Chapter 261 1999

Bill H _____ S 215 Original bill & history ____C

H. Committee on Judiciary			S. Committee on Judiciary		
Hearing Date(s)	Mar 02	✓ C	Hearing Date(s)	Jan 30	✓ C
	Mar 06	✓ C		Feb 05	✓ C
	_____	____C		_____	____C
	_____	____C		_____	____C
Date Out	Mar 06	✓ C		Feb 05	✓ C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

SENATE BILL NO. 213

INTRODUCED BY B. Taylor

BY REQUEST OF THE SECRETARY OF STATE

A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE THE REPRODUCTION OF RECORDS KEPT BY THE SECRETARY OF STATE PURSUANT TO 2-6-111, MCA; TO PROVIDE FOR THE DISPOSAL OF THE ORIGINAL RECORDS; TO PROVIDE FOR IDENTIFICATION, INDEXING, AND SAFEKEEPING OF REPRODUCED RECORDS; TO PROVIDE FOR THE ADMISSABILITY AS EVIDENCE OF THE REPRODUCED COPIES; AMENDING SECTION 2-6-111, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 2-6-111, MCA, is amended to read:

"2-6-111. Custody and reproduction of records by secretary of state. (1) The secretary of state is charged with the custody of:

~~(1)~~(a) the enrolled copy of the constitution;

~~(2)~~(b) all the acts and resolutions passed by the legislature;

~~(3)~~(c) the journals of the legislature;

~~(4)~~(d) the great seal;

~~(5)~~(e) all books, records, deeds, parchments, maps, and papers kept or deposited in his office pursuant to law.

(2) All records included in subsection (1), may be kept and recorded by photostatic or microphotographic means, microfilm, or any other mechanical process that produces a clear, accurate, and permanent duplicate of the original record in accordance with standards not less than those approved for permanent records by the national bureau of standards.

(3) The state records committee created by 2-15-1013, may approve the disposal of original records once those records are reproduced as provided for in subsection (2). The reproduction, or certified copy thereof, may be used in place of the original for all purposes, including as evidence in any court or proceeding, and shall have the same force and effect as the original record.

(4) The secretary of state shall prepare enlarged typed or photographic copies of the records whenever their production is required by law.

(5) At least two copies shall be made of all records reproduced as provided for in subsection (2). The secretary of state shall place one copy in a fireproof storage place and shall retain the other copy in his office with suitable equipment for displaying such record by projection to not less than its original size and for preparing, for persons entitled thereto, copies of the record.

(6) All duplicates of all records shall be identified and indexed."

--end--

SB 213 INTRODUCED BILL

LC 0596/01

the senators. He stated that they now handle almost 2 1/2 times as many cases as they handled before and on the average they drive 11,000 miles a year.

Senator Van Valkenburg introduced Mike Abley, the court administrator of the Supreme Court, who handed out additional statistics showing the case load was much greater than what was testified. (See attachments).

There were no further proponents and no opponents.

Senator Turnage felt that in section 2, the date of January, 1981 should be taken out as he felt that this would delay any benefit in the bill for nearly two years and he stated that he hoped that the committee would see the problem this district has.

Senator Van Valkenburg questioned as to where the fourth judge would be housed and Judge Green stated that this could be anywhere in the district and that it would not necessarily have to be in Missoula.

There were no further questions and the hearing on this bill was closed.

CONSIDERATION OF SENATE BILL 215:

Senator Ryan stated that he introduced this bill, which is an act to punish the commission of an assault upon a youth less than 12 years old by an adult by imprisonment in the state prison for a term not to exceed 5 years, at the request of eight county attorneys. He introduced Carroll Blend, deputy county attorney in Cascade County.

Mr. Blend gave an example of a case wherein a child was beaten and the offender was charged with a misdemeanor as they could not charge him with aggravated assault because there was no serious injury. He stated that this statute would provide that if the victim is less than 12 years old and the offender is more than 18 years of age, and if convicted, then the offender shall be put in prison for no more than five years. He felt that this would give more control over people who do beat children. He stated that this, of course, would not insulate children against corporal punishment.

Mr. Douglas Allen, representing himself, gave a statement in support of this bill.

There were no further proponents and no opponents. Senator Ryan made a closing statement and asked serious consideration for a serious matter.

Senator Turnage commented that he felt that there should be a more severe punishment for assaulting a child under 12 than for an adult, but he was concerned about a school teacher or a neighbor who shakes a child, and he wondered if they could be found guilty. He was concerned about the way the bill reads. He felt that it should be narrowed down some.

There were no further comments or questions.

There being no further business, the meeting adjourned at 10:59 a.m.

Everett R. Lensink

SENATOR EVERETT R. LENSINK, Chairman
Senate Judiciary Committee

SB-202
-215

SENATE _____ COMMITTEE

BILL SB 228
SB-225

VISITORS' REGISTER

DATE 1/22/91

Please note bill no.

NAME	REPRESENTING	BILL #	(check one) SUPPORT	OPPOSE
P. Nelson	G.F. Crime Control Org.	228	✓	
Charlie Follick	A.A.C.P.	228	✓	
James R Burns	Flathead Sheriff's Assn	228	✓	
Dexter Delaney	Western Bar Assn	202		
[illegible]	[illegible]	202	✓	
Kent Redebaugh	City of Great Falls	228	✓	
[illegible]	[illegible]	[illegible]		
Tom Hoyt	County Attorneys	227	✓	
Carroll C. Blend	self	215	✓	
Douglas C Allen	Self	215	✓	
LARRY ZANTO	DEPT OF INSTITUTIONS	228	—	
[illegible]	Supreme Court	202		

TESTIMONY REGARDING SB 215

Whether or not child abuse is more prevelant now than it has been, it is certain that we are more conscious of it than ever. While such abuse can take many forms, the most common form is the direction of physical violence toward a physically small and emotionally and economically dependant person by an adult whether natural parent, step-parent or girl-friend or boyfriend of the natural parent. In terms of the criminal law this would be an assault. Yet young children, as can be observed from their normal activities and play, have an enormous ability to absorb physical abuse without permanent injury. The same abuse directed to an adult would surely result in hospitalization and permanent injury.

The result of the nature of the victims of these assaults is that only bodily injury as defined in Section 45-2-101(5), MCA 1979, results and rarely serious bodily injury as defined in Section 45-2-101((53), MCA 1979. Thus the assailant is usually charged with Assault, a misdemeanor, which carries a maximum penalty of six months imprisonment and a $500 fine and not Aggravated Assault, a felony, which carries a penalty of not less than two nor more than twenty years in prison. In other words, the parent who beats his or her child is exposed to the same punishment as a person who runs a stop sign.

It is submitted that child abuse is more repugnant than running a stop sign and more dangerous to society. The purpose of Senate Bill 215 is to increase the possible penalty to five years in prison where the assailant is 18 years or older and the victim is less than 12 years old. The imposition of more severe penalties when there is a difference in the ages of the aasailant and the victim is not new. In both the crimes of Sexual Assault, Section 45-5-502, MCA 1979, and Sexual Intercourse Without Consent, Section 45-5-503, MCA 1979, the penalty is increased where the victim is less than 16 and the offender 3 or more years older.

We do not promise that enactment of this bill will put an end to assaults on children. However, such enactment would officially recognize and publicize the concern of the State that assaults on children are serious matters. Practically, not only would it increase the amount of imprisonment which could be imposed by a factor of ten but would allow for considerably more intervention by the State into the particular problem. A justice of the peace or police judge can only place an offender on probation for a year and rarely requires supervision of that probation. On the other hand, a district judge can place an offender on probation for three or, here, five years, and customarily requires supervision by the Bureau of Probation and Parole.

We respectfully request your earnest consideration of Senate Bill 215 and that you recommend its passage.

Douglas Allen
3305 Antelope Drive
Great Falls, Montana 59404
Tel: 761-3181 (home)
761-5335 (business)

Carroll C. Blend
2323 3rd Avenue South
Great Falls, Montana
Tel: 761-6110 (home)
761-6700 (business)

EXPLANATIONS AND CONSIDERATIONS

The statistical summaries reflect District Court caseload for the Fiscal Year ending June 30, 1978. Case type filings are provided in seven (7) categories. These categories include the following types of filings:

CRIMINAL: Felonies; high misdemeanors; extraditions; criminal appeals (City and J.P.).

CIVIL: Personal injury; property damage; condemnation; lien; foreclosure; eviction; partition; quiet title; agreement suits; injunctions; declaratory judgments; certificate of amount due; warrant of distraint; abstract of judgment; transcript of judgment; mandamus; habeas corpus; habitual traffic offender; note; wage claim; amount due; unlawful detainer; zoning; taxes; workman's compensation; and water rights.

DOMESTIC RELATIONS: Marriage dissolution; invalid marriage; legal separation; URESA (outgoing); URESA (incoming); paternity.

JUVENILE: Youth in need of care (YINC); Youth in need of supervision (YINS).

PROBATE: Formal probate; informal probate; supervised probate; guardianship; conservatorship; trust.

INSANITY: Mentally ill; inebriation (commitments).

ADOPTIONS: Adoptions (minor or adult).

Column 1 (Original Filings) in each of the Caseload Tables reflects an actual count made by either the Clerk of the District Court or staff of the Court Administrator's Office for the previously mentioned period. Column 2 (Reopened Filings) is an estimated figure based on a statistical extrapolation from a 14 county sample, in which a physical court of case reopenings was made by either the Clerks of the District Court or Court Administrative staff. Column 3 (Total Filings) is again an estimated figure representing the addition of Columns 1 and 2.

Column 4 (Case Dispositions) is an estimated figure based on the statistical extrapolation of the 14-county sample. Column 5 (Dispositions -- Average Time in Days) are actual time averages based on actual cases filed and disposed by the District Courts during the previously mentioned period of time. Some 25,000 District Court Cases were analyzed by computer. None of the caseload figures attempt to reflect those cases handled by judges out-of-district through substitutions (disqualification) provisions.

The Methods of Disposition Table reflects an actual percentage calculation based on the 25,000 District Court cases analyzed by computer. The figures derived for judicial district population, population density and square miles were obtained from tables provided by the Bureau of Business and Economic Research, University fo Montana. The figures compiled for Attorney population were derived from the Montana Directory of Attorneys 1977-78. Excluded from this compilation were attorneys who were judges or high-ranking government officials.

SUMMARY BY JUDICIAL DISTRICT		JUDICIAL DISTRICT NO	4
POPULATION(7/1/1977)	115500	COUNTIES IN THE DIST	5
AREA IN SQUARE MILES	10488	JUDGES ASSIGNED	3
DENSITY PER SQ MILES	11.013	ATTORNEY POPULATION	194

C A S E L O A D

CASE TYPE	FILINGS ORIG (1)	FILINGS RE-OP (2)	FILINGS TOTAL (3)	DISPOSITIONS CASES (4)	DISPOSITIONS AVE TIME DAYS (5)	THRUPU (4)/(3) X100
(1) CRIMINAL CASES (DC)	414	57	471	474	118	100
(2) CIVIL CASES	3187	179	3366	2671	122	79
GENERAL, CIVIL (DV)	1794	49	1843	1419	136	76
DOMESTIC REL. (DR)	1393	130	1523	1252	102	82
(3) JUV., PROB. & MISC.	781	59	840	629	305	74
JUVENILE (DJ)	156	19	175	145	108	82
ADOPTION (DA)	107	0	107	101	33	94
PROBATE (DP)	498	38	536	363	553	67
INSANITY (DI)	20	2	22	20	6	90
TOTAL CASES (1+2+3)	4382	295	4677	3774	144	[illegible]

M E T H O D S O F D I S P O S I T I O N

(ALL FIGURES ARE PERCENTAGES)

-- CRIMINAL ---		-CIVIL & DOM REL-		-JUV, PROB & MISC	
ACQUITTED	3			ACQUITTED	0
GUILTY PLEA	75	FOR DEFEND	1	GUILTY PLEA	5
GUILTY VERD	7	FOR PLAINT	11	GUILTY VERD	0
DISMISSED	11	DISMISSED	17	DISMISSED	4
DEFAULT	0	DEFAULT	42	DEFAULT	0
CH OF VENUE	0	CH OF VENUE	2	CH OF VENUE	0
OTHER	4	OTHER	28	OTHER	89
NOT KNOWN	0	NOT KNOWN	1	NOT KNOWN	2

DISTRICT COURT OF LAKE		JUDICIAL DISTPICT NO	4
POPULATION(7/1/1977)	17600	COUNTIES IN THE DIST	5
AREA IN SQUARE MILES	1494	JUDGES ASSIGNED	3
DENSITY PER SQ MILES	11.780		
ATTORNEY POPULATION	15		

C A S E L O A D

CASE TYPE	FILINGS ORIG (1)	FILINGS RE-OP (2)	FILINGS TOTAL (3)	DISPOSITIONS CASES (4)	DISPOSITIONS AVE TIME DAYS (5)	THRUPUT (4)/(3) X100
(1) CRIMINAL CASES (DC)	78	6	84	66	89	78
(2) CIVIL CASES	426	27	453	342	92	75
GENERAL, CIVIL (DV)	240	8	248	194	86	78
DOMESTIC REL. (DR)	186	19	205	148	99	72
(3) JUV., PROB. & MISC.	141	5	146	81	173	55
JUVENILE (DJ)	26	1	27	20	54	74
ADOPTION (DA)	24	0	24	24	37	100
PROBATE (DP)	88	4	92	34	275	36
INSANITY (DI)	3	0	3	3	7	100
) TOTAL CASES (1+2+3)	645	38	683	489	114	71

M E T H O D S O F D I S P O S I T I O N

(ALL FIGURES ARE PERCENTAGES)

-- CRIMINAL ---		-CIVIL & DOM REL-		-JUV, PROB & MISC	
ACQUITTED	4			ACQUITTED	0
GUILTY PLEA	75	FOR DEFEND	0	GUILTY PLEA	1
GUILTY VERD	7	FOR PLAINT	9	GUILTY VERD	0
DISMISSED	9	DISMISSED	16	DISMISSED	3
DEFAULT	2	DEFAULT	42	DEFAULT	0
CH OF VENUE	0	CH OF VENUE	1	CH OF VENUE	0
OTHER	2	OTHER	31	OTHER	94
NOT KNOWN	0	NOT KNOWN	0	NOT KNOWN	1

DISTRICT COURT OF MINERAL		JUDICIAL DISTRICT NO	4
POPULATION(7/1/1977)	3400	COUNTIES IN THE DIST	5
AREA IN SQUARE MILES	1222	JUDGES ASSIGNED	3
DENSITY PER SQ MILES	2,782		
ATTORNEY POPULATION	2		

C A S E L O A D

CASE TYPE	FILINGS ORIG (1)	FILINGS RE-OP (2)	FILINGS TOTAL (3)	DISPOSITIONS CASES (4)	DISPOSITIONS AVE TIME DAYS (5)	THRUPUT (4)/(3) X100
(1) CRIMINAL CASES (DC)	7	0	7	7	119	100
(2) CIVIL CASES	79	2	81	68	89	83
GENERAL, CIVIL (DV)	37	2	39	38	98	97
DOMESTIC REL. (DR)	42	0	42	30	77	71
(3) JUV., PROB. & MISC.	16	1	17	10	180	58
JUVENILE (DJ)	1	0	1	1	14	100
ADOPTION (DA)	5	0	5	4	10	80
PROBATE (DP)	10	1	11	5	349	45
INSANITY (DI)	0	0	0	0	0	0
TOTAL CASES (1+2+3)	102	3	105	85	103	8[illegible]

M E T H O D S O F D I S P O S I T I O N

(ALL FIGURES ARE PERCENTAGES)

-- CRIMINAL ---		-CIVIL & DOM REL-		-JUV, PROB & MISC	
ACQUITTED	0			ACQUITTED	0
GUILTY PLEA	100	FOR DEFEND	0	GUILTY PLEA	0
GUILTY VERD	0	FOR PLAINT	22	GUILTY VERD	0
DISMISSED	0	DISMISSED	7	DISMISSED	0
DEFAULT	0	DEFAULT	4	DEFAULT	0
CH OF VENUE	0	CH OF VENUE	4	CH OF VENUE	0
OTHER	0	OTHER	62	OTHER	100
NOT KNOWN	0	NOT KNOWN	0	NOT KNOWN	0

SUPREME COURT OF MONTANA: ANNUAL REPORT, 1977-78

DISTRICT COURT OF MISSOULA		JUDICIAL DISTRICT NO	4
POPULATION(7/1/1977)	66800	COUNTIES IN THE DIST	5
AREA IN SQUARE MILES	2612	JUDGES ASSIGNED	3
DENSITY PER SQ MILES	25.574		
ATTORNEY POPULATION	158		

C A S E L O A D

CASE TYPE	FILINGS ORIG (1)	FILINGS RE-OP (2)	FILINGS TOTAL (3)	DISPOSITIONS CASES (4)	DISPOSITIONS AVE TIME DAYS (5)	THRUPUT (4)/(3) X100
(1) CRIMINAL CASES (DC)	223	40	263	305	140	115
(2) CIVIL CASES	2131	117	2248	1803	108	80
GENERAL, CIVIL (DV)	1241	31	1272	947	120	74
DOMESTIC REL. (DR)	890	86	976	856	89	87
(3) JUV., PROB. & MISC.	411	46	457	412	265	90
JUVENILE (DJ)	83	17	100	90	174	90
ADOPTION (DA)	70	0	70	65	38	92
PROBATE (DP)	248	27	275	247	484	89
INSANITY (DI)	10	2	12	10	3	83
TOTAL CASES (1+2+3)	2765	203	2968	2520	125	84

M E T H O D S O F D I S P O S I T I O N

(ALL FIGURES ARE PERCENTAGES)

-- CRIMINAL ---		-CIVIL & DOM REL-		-JUV, PROB & MISC	
ACQUITTED	3			ACQUITTED	0
GUILTY PLEA	72	FOR DEFEND	1	GUILTY PLEA	11
GUILTY VERD	7	FOR PLAINT	11	GUILTY VERD	0
DISMISSED	15	DISMISSED	17	DISMISSED	5
DEFAULT	0	DEFAULT	49	DEFAULT	0
CH OF VENUE	0	CH OF VENUE	1	CH OF VENUE	0
OTHER	4	OTHER	22	OTHER	83
NOT KNOWN	0	NOT KNOWN	0	NOT KNOWN	2

DISTRICT COURT OF RAVALLI		JUDICIAL DISTRICT NO	4
POPULATION(7/1/1977)	19300	COUNTIES IN THE DIST	5
AREA IN SQUARE MILES	2382	JUDGES ASSIGNED	3
DENSITY PER SQ MILES	8.102		
ATTORNEY POPULATION	14		

C A S E L O A D

CASE TYPE	FILINGS ORIG (1)	FILINGS RE-OP (2)	FILINGS TOTAL (3)	DISPOSITIONS CASES (4)	DISPOSITIONS AVE TIME DAYS (5)	THRUPUT (4)/(3) X100
(1) CRIMINAL CASES (OC)	80	7	87	76	81	87
(2) CIVIL CASES	378	25	403	322	223	79
GENERAL, CIVIL (OV)	189	6	195	174	272	89
DOMESTIC REL. (OR)	189	19	208	148	165	71
(3) JUV., PROB. & MISC.	126	5	131	67	470	51
JUVENILE (OJ)	36	1	37	28	71	75
ADOPTION (OA)	0	0	0	0	13	0
PROBATE (OP)	83	4	87	32	833	36
INSANITY (OI)	7	0	7	7	10	100
TOTAL CASES (1+2+3)	584	37	621	465	253	[illegible]

M E T H O D S O F D I S P O S I T I O N

(ALL FIGURES ARE PERCENTAGES)

-- CRIMINAL ---		-CIVIL & DOM REL-		-JUV, PROB & MISC	
ACQUITTED	1			ACQUITTED	0
GUILTY PLEA	87	FOR DEFEND	0	GUILTY PLEA	0
GUILTY VERD	4	FOR PLAINT	5	GUILTY VERD	0
DISMISSED	1	DISMISSED	22	DISMISSED	6
DEFAULT	0	DEFAULT	7	DEFAULT	0
CH OF VENUE	0	CH OF VENUE	6	CH OF VENUE	2
OTHER	4	OTHER	54	OTHER	90
NOT KNOWN	1	NOT KNOWN	5	NOT KNOWN	2

DISTRICT COURT OF SANDERS		JUDICIAL DISTRICT NO	4
POPULATION(7/1/1977)	8400	COUNTIES IN THE DIST	5
AREA IN SQUARE MILES	2778	JUDGES ASSIGNED	3
DENSITY PER SQ MILES	3.024		
ATTORNEY POPULATION	5		

C A S E L O A D

CASE TYPE	FILINGS ORIG (1)	FILINGS RE-OP (2)	FILINGS TOTAL (3)	DISPOSITIONS CASES (4)	DISPOSITIONS AVE TIME DAYS (5)	THRUPUT (4)/(3) X100
(1) CRIMINAL CASES (DC)	26	4	30	20	109	66
(2) CIVIL CASES	173	8	181	136	85	75
GENERAL, CIVIL (DV)	87	2	89	66	78	74
DOMESTIC REL. (DR)	86	6	92	70	93	76
(3) JUV., PROB. & MISC.	87	2	89	59	92	66
JUVENILE (DJ)	10	0	10	6	73	60
ADOPTION (DA)	8	0	8	8	27	100
PROBATE (DP)	69	2	71	45	187	63
INSANITY (DI)	0	0	0	0	0	0
TOTAL CASES (1+2+3)	286	14	300	215	88	71

M E T H O D S O F D I S P O S I T I O N

(ALL FIGURES ARE PERCENTAGES)

-- CRIMINAL ---		-CIVIL & DOM REL-		-JUV, PROB & MISC	
ACQUITTED	0			ACQUITTED	0
GUILTY PLEA	68	FOR DEFEND	0	GUILTY PLEA	0
GUILTY VERD	9	FOR PLAINT	20	GUILTY VERD	0
DISMISSED	14	DISMISSED	10	DISMISSED	0
DEFAULT	0	DEFAULT	28	DEFAULT	0
CH OF VENUE	0	CH OF VENUE	4	CH OF VENUE	0
OTHER	9	OTHER	37	OTHER	100
NOT KNOWN	0	NOT KNOWN	0	NOT KNOWN	0

Senator Brown asked about how the record keeping would tie in with the record keeping of the Board of Health and stated that without this information there would be a gaping hole in the authenticity of vital statistics. Mr. Lucas said that the Blackfoot tribe had this problem and they came right to Helena to solve it. Senator Brown asked if they would favor shipping these statistics right to Helena and not going through the district judge.

Senator Turnage questioned whether they do not still have to get their licenses from the district court and with a yes answer, he stated that there shouldn't be that much of a problem.

Senator Brown suggested that before we take action on this bill, that Valencia Lane, the researcher, call the records and statistics department and see what problems might occur and if they have objections.

The hearing on this bill was closed.

DISPOSITION OF SENATE BILL 202:

This is a bill which would provide for a fourth district court judge in the fourth judicial district. Senator VanValkenburg moved that section 2 be deleted on lines 20 to 23, page 1. The motion carried unanimously.

Senator Turnage noted that there was no prohibitive language saying that they must live in Missoula, and Senator VanValkenburg stated that they can live in any county seat.

Senator Healy questioned if this would take effect immediately in eleminating section 2. Senator VanValkenburg stated that it would be in effect on July 1, and they would have thirty days in which to appoint a judge and the governor has thirty days and the judge could be there by the first of September.

Senator VanValkenburg moved that the bill do pass as amended. The motion carried unanicoulsy.

DISPOSITION OF SENATE BILL 219:

Senator Turnage moved that Senate Bill 219 be tabled. The motion carried unanimously.

DISPOSITION OF SENATE BILL 215:

This is an act to punish the commission of an assualt upon a youth less than 12 years old by an adult by imprisonment in the state prison for a term not to exceed five years.

Senator Turnage said that this is making a felony out of

what used to be a third degree assault and that there is some language in this of a simple assault that should not apply.

Senator Brown moved to amend the bill on page 2, line 6, after "conviction" insert "under subsection (1)(a) of this section. The motion carried unanimously.

Senator Turnage moved that the bill do pass as amended. The motion carried unanimously.

DISPOSITION OF SENATE BILL 274:

Valencia Lane, researcher for the committee, stated that she talked to Dave Woodgerd in the State Lands and he gave her some information on navigable streams and rivers.

Senator Turnage stated that he thought Senator Thiessen's concern is already taken care of if in state law. He said that it seems to him that if you gain land by accretion, you gain all of it - not just surface rights. He said that it had not been tested and he did not think anyone has drilled on it.

Senator Brown moved that this bill do not pass. The motion carried unanimously.

Senator Lensink stated that the committee will meet after session and will also meet on Thursdays after the session.

There being no further business, the meeting adjourned at 10:43 a.m.

Everett R. Lensink

SENATOR EVERETT R. LENSINK, Chairman
Senate Judiciary Committee

STANDING COMMITTEE REPORT

February 5, 19 73

MR. President:

We, your committee on Judiciary

having had under consideration Senate Bill No. 215

Respectfully report as follows: That Senate Bill No. 215

introduced bill, be amended as follows:

1. Title, line 6.
Following: "ADULT"
Insert: "UNDER CERTAIN CIRCUMSTANCES"

2. Page 2, line 6.
Following: "conviction"
Insert: "under subsection (1)(a)"

And, as so amended,
DO PASS

Everett R. Lensink Chairman.

STATE PUB. CO.
Helena, Mont.

REPRESENTATIVE EUDAILY: Was this not included in Senate Bill 65, the elections bill?

MR. McGRATH: No.

The hearing closed on Senate Bill 291.

SENATE BILL NO. 296: Senator Van Valkenburg. This bill just adds tribal judges to the list of people who can solemnize marriages.

The hearing closed on Senate Bill 296.

SENATE BILL NO. 488: Senator Jergeson. It gives an additional tool to the Administrative Code Committee. What it does is set up a sunset process. On page 2, line 25, it does list the Department of Fish and Game. There is a fiscal note.

REPRESENTATIVE SCULLY: I will read a letter from George Bandy, the Acting Commissioner of Higher Education. Letter attached, exhibit #4, which states that the Board of Regents is excluded from the Administrative Procedure Act.

SENATOR JERGESON: Would you like to strike the reference to the University system. Discussion.

The hearing closed on Senate Bill 488.

SENATE BILL NO. 215: Senator Ryan. This bill would punish physical violence perpetrated upon a child by an adult. The purpose of the bill is to increase the penalty. She discussed subsection 3 on page 2.

There was no other discussion and the hearing closed on Senate Bill 215.

SENATE BILL NO. 225: Senator Ryan. This is an attempt to clarify the recall. On page 1, subsection 3, I have had it interpreted to me that because this reads misconduct this would exclude judges and county attorneys, that they would have to indict themselves. He went on to discuss line 24.

Representative Rosenthal asked what kind of physical fitness. Senator Ryan said that one of the judges in Cascade County was incapacitated for a long time and this would clarify.

Representative Holmes questioned line 22, to change the wording. With no other discussion the hearing closed on Senate Bill 225.

SENATE BILL NO. 232: Representative Kemmis suggested an amen After some discussion Representative Lo moved "not concurred in". Representative Keyser moved a substitute motion "be concurred in". Representative Keedy suggested there shou be an amendment on page 3, lines 9, 10 and 11. After more discussio it was decided to wait on the amendments and see how the vote turned out and then amend if necessary. The question was called and on a roll call vote the motion failed by 9 to 7. The vote was reversed and the bill did not pass by 9 to 7.

The bill will be held until it is discus with the sponsor. He has possible amend ments that may change the opinion of the committee.

SENATE BILL NO. 153: Representative Lory moved "be concurred in". The motion carried with the vote unanimous. Representative Lory will carry on the floor.

SENATE BILL NO. 291: Representative Keyser moved "be concurre in". Representative Teague presented amendments. (copy attached) Representative Keyser moved the adoptio of the proposed amendments, and the motion carried with the vote unanimous. Representative Keyser moved "be concurred in as amended". The motion carried with the vote unanimous. The bill will be held for the Elections sub-committee to see if it is covered in SB 65.

SENATE BILL NO. 215: Representative Roth moved "be concurred in". The suggestion was made that some amendments would be necessary. Representative Keedy moved to amend page 1, the title, change 12 to 14. The motion carried with the vote unanimous. Representative Kemmis moved to amend on page 2, line 2. The motion carried with the vote unanimous. (copy attached)

Representative Roth moved "be concurred in as amended. The motion carried with the vote unanimous. Representative Keedy will carry on the floor.

SENATE BILL NO. 281: Representative Keyser moved "be concurre in" and the motion carried with the vote unanimous. Representative Keyser will carry on the floor.

SENATE BILL NO. 278: Representative Keyser moved proposed amendments. The motion carried with the vote unanimous. Representative Lory moved "be concurred in as amended The motion carried with the vote unanimous. Representative Kemmis wil carry if Representative Dussault does not, since she is one of the sponsors and may be willing to carry it.

There was no further business and the meeting adjourned at 10:10 a.m.

John P. Scully, Chairman

J:S:mec

SENATE BILL NO. 213

INTRODUCED BY BLAYLOCK

BY REQUEST OF THE SECRETARY OF STATE

A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE THE REPRODUCTION OF RECORDS KEPT BY THE SECRETARY OF STATE PURSUANT TO 2-6-111, MCA; TO PROVIDE FOR THE DISPOSAL OF THE ORIGINAL RECORDS; TO PROVIDE FOR IDENTIFICATION, INDEXING, AND SAFEKEEPING OF REPRODUCED RECORDS; TO PROVIDE FOR THE ADMISSABILITY AS EVIDENCE OF THE REPRODUCED COPIES; AMENDING SECTION 2-6-111, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 2-6-111, MCA, is amended to read:

"2-6-111. Custody and reproduction of records by secretary of state. (1) The secretary of state is charged with the custody of:

~~(1)~~(a) the enrolled copy of the constitution;

~~(2)~~(b) all the acts and resolutions passed by the legislature;

~~(3)~~(c) the journals of the legislature;

~~(4)~~(d) the great seal;

~~(5)~~(e) all books, records, deeds, parchments, maps, and papers kept or deposited in his office pursuant to law.

(2) All records included in subsection (1), may be kept and recorded by photostatic or microphotographic means, microfilm, or any other mechanical process that produces a clear, accurate, and permanent duplicate of the original record in accordance with standards not less than those approved for permanent records by the ~~national bureau of~~ standards AMERICAN NATIONAL STANDARDS INSTITUTE.

(3) The state records committee created by 2-15-1013, may approve the disposal of original records once those records are reproduced as provided for in subsection (2), UNLESS DISPOSAL TAKES THE FORM OF TRANSFER OF RECORDS; IN THAT CASE, REPRODUCTION WILL NOT BE NECESSARY. The reproductions or certified copy thereof, may be used in place of the original for all purposes, including as evidence in any court or proceedings, and shall have the same force and effect as the original record.

(4) The secretary of state shall prepare enlarged typed or photographic copies of the records whenever their production is required by law.

(5) At least two copies shall be made of all records reproduced as provided for in subsection (2). The secretary of state shall place one copy in a fireproof storage place and shall retain the other copy in his office with suitable equipment for displaying such record by projection to not less than its original size and for preparing, for persons entitled thereto, copies of the record.

REFERENCE BILL

(6) All duplicates of all records shall be identified and indexed.

-End-

STATE OF MONTANA

Request No. 485-79

FISCAL NOTE

Form BD-15

In compliance with a written request received March 19, 1979, there is hereby submitted a Fiscal Note for Senate Bill 213 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to authorize the reproduction of records kept by the Secretary of State.

ASSUMPTIONS:

1. Present staff will study methods and procedures during FY 80 and FY 81 for implementing the act.

2. No additional FTE will be needed in FY 80 or 81.

3. A proposal to implement the act will be presented to the next legislature.

FISCAL IMPACT:

Minimal costs will be incurred in FY 80 and 81 and they can be absorbed in the current level budget of the Secretary of State. Plans to implement the program in FY 82 and 83 will be presented to the next legislature for its consideration.

Richard L. Dreyer Jr.

BUDGET DIRECTOR
Office of Budget and Program Planning
Date: 3/20/79